LABOUR DEPARTMENT

The 20th August, 1985.

No. 9/5/84-6Lab./6787.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the Workman and the Management of M/s. Elson Cotton Mills Ltd., 23rd Mile Stone, Mathura Road, Faridabad:—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD.

Reference No. 79 of 1979

between

SHRI SAT NARAIN SHARMA, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S ELSON COTTON MILLS LTD., 23RD MILE STONE, MATHURA ROAD, BALLABGARH.

Present :—

Shri S. S. Gupta, for the workman.

Shri R. K. Virmani, for the respondent-management.

AWARD

By the award dated 9th November, 1981, the order of terminating the services of the workman was set aside and the award was given that he was entitled to reinstatement with continuity of service and with full back wages. This award was challenged with the Hon'ble Punjab and Haryana High Court in civil writ petition No. 4328 of 1983. By the judgement dated 14th February, 1984, this award has been set aside. This case is remanded to this court for fresh decision according to law on all the issues arising in this case. It has also been observed that it was incumbent upon the Labour Court to have given a finding that its conclusion in favour of the claimant was based upon evidence relating to the period subsequent to December, 1977. The books that the Labour Court referred to as being in the hand of Shri S. N. Sharma, had to be shown to be books for the period December, 1977 onwards. No such findings had been recorded and hence it was held that such findings could not be sustained.

According to the demand notice, the claimant was working with the respondent for the last 11 years. His services were illegally terminated on 25th August, 1979. His termination was alleged to be mala fide and against the natural justice. The workman prayed for reinstatement with full back wages and continuity of service. In the claim statement it is further alleged that the job which the workman was doing could not be abolished. If it was retrenchment, no retrenchment benefit was given to him.

In the written statement the management has contended that the workman was drawing more than Rs. 500 per month. He was not a workman within the meaning of Section 2-S of the Industrial Disputes Act, 1947 and the reference is incompetent and bad in law. It is further alleged that he was employed as Excise Clerk. He was promoted as Godown Incharge with effect from December, 1977 and at the time of termination of services he was drawing a salary of Rs. 580 per month. He was holding supervisory and confidential position in the factory. He was supervising the work of other workmen as well as the contractors for loading and unloading of the yarn. Hence he was not a workman. The workman also represented the factory before the excise department and other authority. The Board of Directors has stated Shri S. N. Sharma, as officer of the factory. He was authorised to sign all the papers pertaining to excise affairs. The authorities were duly informed by the management. He was also signing excise gate passes. He was also authorised to sign the declaration. He was also authorised to sign the stock in hand. He was also authorised to verify the bills of the contractors. Hence he was holding the position of supervision and confidence. In the year 1978 there was change in the management of the factory and new management decided to stock the yarn at different places and set up small godowns in different areas. It was not necessary to have centralised godown in the factory. As a consequence, the services of Godown Incharge were not needed. Hence the post was abolished. Hence his services were terminated on 23rd August, 1979, and he was also advised to collect the dues mentioned in the letter but he did not come to collect the same. Hence a cheque of Rs. 6,359.80 was sent to him on 30th August, 1979. It has been duly received by the claimant. He was not entitled to any further relief. Termination of services of the workman was justified.

These averments have been denied in the rejoinder. It is denied that the claimant was

Supervisor. It is alleged that he was doing the work of clerical nature.

The reference was contested on the following issues :—

(1) Whether the workman was working in a supervisory capacity and not covered under the definition of workman in I.D. Act? If so, to what effect?

(2) Whether the termination of services of the workman is justified and in order? If not, to what relief is he entitled ?

I have heard the representatives of both the parties and gone through the evidence on record. My findings on the issues seriatim are as follows :—

Issue No. 1 :—

The management has relied upon resolution Ex. M-1. It is contended that,—vide this resolution dated 13th October, 1978, the claimant along with other two persons was employed to clear excise goods of the factory. Relying on this resolution, the representative has contended that the claimant was in a confidence position in the management. Hence he was a supervisor. To be in confidence of some one does not prove that he worked in supervisory capacity. If the claimant was empowered to sign papers it does not show that he was made a supervisor. It is further said that letter Ex. M-2 and the specimen signature were sent to the authority in consequence of the resolution. These letters did not make the claimant a supervisor. Even the resolution has not made him so. It is further contended that the claimant was used to sign gate passes and G.P.I. form Ex. M-4 dated 16th April, 1979. These gate passes also do not show that the claimant was appointed as Supervisor. Ex. M-9 is the declaration of stock. It is dated 27th February, 1979. This declaration does not show that he was a supervisor. It rather shows that he was doing the clerical job to prepare declaration of stock. Ex. M-11 shows that goods were received in the factory premises. This also does not make the claimant a supervisor. Ex. M-12 and M-14 are the detail which have been checked and verified by the claimant. These details also do not prove that the claimant was a supervisor. He was doing extra duties of checking and verifying the bills. He was given more clerical work to do. There was no letter issued to him promoting him supervisor. Hence all these documents did not prove that the claimant had stopped to do the work which he was doing earlier. It is also contended that the claimant was doing supervisory, checking of loading and un-loading work. This work was in addition to his previous work. Hence it can not be said that the claimant was a supervisor. It is contended that the workman himself contended that he represented the factory before the Excise and Taxation Officer. He was signing various declarations. He was authorised to check and verify the details. These duties do not prove that the claimant was doing supervisory work. It is admitted by MW-1 that no promotion letter was issued to the workman. His designation was changed in the register. He had no power to appoint or dismiss any worker. Ex. M-5 to M-8 were prepared by the workman. He has further stated that R.G. registers were also filled by the claimant. His clerk could not fill it. As clerk he has authority to give permission for excise. It is admitted that earlier this work was given to the claimant and this duty can be given to any one. It is also admitted that Ex. M-14 was prepared in the hand of the claimant. This witness cannot bring any document to show that the claimant had left the previous job. He has further admitted that without the gate passes goods do not go out of the factory. The goods also go out only on the signature of the manager. This statement of MW-1 clearly shows that the main work of the claimant was to represent the management before Excise Department. He was also authorised to sign the statements, He was also given two clerks to help him. These extra duties do not prove that he was promoted as Supervisor. After December, 1978, no promotion letter was issued and in December, 1978, his pay was not increased to suggest that he was promoted as Supervisor. The representative of the management has relied upon a judgement of Delhi High Court in Kirloskar Brothers Ltd. *versus* Labour Court, Delhi, and another FJR page 49 (41), wherein it is held that question whether an employee is a workman or not must be a positive approach and not a negative approach. It is held that an employee preparing accounting, statistical and budgetary statements, complying reconciliation statements, having no power to appoint any one or to take disciplinary proceedings against anyone was not a workman. In the present case the main duties which the workman was doing were of clerical nature. It does not mean that he has left previous job and became a supervisor. Reliance has further been placed in Toshniwal Brothers Private Ltd. *versus* Delhi Administration and others 1977 (34) FLR 133. It

is held that a person cannot be said to be carrying on clerical duties if he is required to perform substantial duties of a supervisory, directional or controlling nature even though at the same time carrying on duties of a clerical nature. In the present case the main duties of the claimant were clerical though he was given some extra duties for which he was paid extra. In the case of Burmah Shell Oil Storage and Distributing Co. of India, Ltd. *versus* Burmah Shell Management Staff Association and others in FJR (41) 361. It was held that depot superintendents having charge of a depot were held not to be workmen. It is alleged being incharge of the excise he was not workman. As held by me the claimant was mainly excise clerk.

The representative of the workman has relied upon the judgement of High Court of Calcutta in Rallis India Ltd. *versus* State of West Bengal and others, 1983-LW-II, page 293 It was a case of Head Cashier. He was supervising the job of clerical staff of Cash Department. It was held that he had not become supervisor. In 1930 II-LLN-page 184, of Hon'ble High Court, Madras in Engineering Construction Corporation, Ltd., Madras *versus* Additional Labour Court, Madras and others. In case of Foreman getting a salary of Rs. 800 per month and supervise the work of 9/10 Carpenters. It was held that he was not a supervisor. In 1969-II-LLJ, page 670, Hon'ble Supreme Court of India in case between Ananda Bazar Patrika Private Ltd. *versus* its workmen has held that designation and the status is not material.

In view of the above discussions I find that the claimant had not worked in Supervisory capacity. He was mainly doing the job of clerk. Hence he was a workman. This issue is decided against the management.

Issue No. 2:—

It is contended that in the termination letter dated 23rd August, 1979, Ex. M-15 the claimant was offered one month's salary in lieu of notice pay. 15 days salary for each years as retrenchment compensation, salary in lieu of unavailed leave. The claimant did not come to collect the same. Hence the same was sent to him by registered letter, dated 30th August, 1979. It is Ex. M-17. Reliance is also placed on the judgement of Bombay High Court in Oriental Metal Pressing Works (P.) Ltd. *versus* Kendrekar in 1981-42 FJR 185. As against this judgement the representative of the workman has relied upon 1982 FJR-61-page 180 of Supreme Court of India in workmen of Coimbatore: Pioneer 'B' Mills Ltd., *versus* Labour Court and others, in which it is held that benefits must be tendered alongwith termination letter. In the present case no cheque or Bank draft had been attached with the termination letter. Hence it cannot be said that the termination letter and the payment was one act. Hence termination of the workman was illegal and unjustified. He is entitled to reinstatement with continuity of service and with full back wages.

The award is decided accordingly.

Dated, the 20th July, 1985.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 2231, dated 8th August, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the I.D. Act.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

The 2nd September, 1985

No. 9/5/84-6Lab/6980.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Indian Drugs and Pharmaceuticals Ltd., Dundahera, Industrial Complex, Gurgaon.

BEFORE SHRI R. N. BATRA,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 338/1981.

between

THE MANAGEMENT OF M/S. INDIAN DRUGS AND PHARMACEUTICALS LTD., DUNDAHERA INDUSTRIAL COMPLEX, GURGAON.

Present:—

Shri P. K. Thampy for the workmen.
Shri M. P. Gupta for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the Management of M/s. Indian Drugs and Pharmaceuticals Ltd., Dundahera, Industrial

Complex, Gurgaon, and its workmen, to this Tribunal, for adjudication:—

Whether the workmen are entitled to the grant of bonus for the year 1979-80? If so, with what details?

2. Notices were issued to both the parties. In the claim statement, dated 8th December, 1981, it was alleged by the claimants that they were entitled to the bonus at the rate of 20 per cent for the years 1978-79 and 1979-80. It was alleged that the balance sheet of Gurgaon Unit had been fabricated to show the loss with intention of not paying the bonus and that the amount of Rs. 6,34,718 had been shown in the expenses for the raw materials transferred to Marketing Division, whereas this amount should have come to the credit side. It was alleged that the management had shown Rs. 27,48,342 as depreciation, but this figure is misleading because the actual depreciation allowed by the Payment of Bonus Act was Rs. 21,31,539 and as such the amount of Rs. 6,16,803 should be added back in profits due to which Unit earned a total profit of 9 lacs approximately and workers were entitled to bonus at the rate of 20 per cent. It was further alleged that it was admitted in the note, dated 13th October, 1981 that the Unit was in profit to the tune of Rs. 2.19 lacs in the accounting year 1978 and if this amount was added, the total profit would come to Rs. 12 lacs. It was further alleged that the Union claimed bonus at the rate of 20 per cent for the years 1978-79 and 1980-81 as Gurgaon Plant earned the profit of Rs. 2.17 lacs during that year. It was further alleged that the management be asked to provide the following details to the Union:—

(1) Travelling and conveyance expenditure;
(2) Books, Periodical and Journals;
(3) Entertainment Expenditure;
(4) Other miscellaneous expenditure.

It was also prayed that the management be directed to provide details of balance sheet for other units and corporate as the Gurgaon Plant was financed by Head Office and if the bonus is paid to any one unit, the same percentage is paid to the Gurgaon Unit.

3. The respondent in their written statement filed on 31st December, 1982 pleaded that the plant at Gurgaon started the production with effect from 19th January, 1979 and had not derived any profit during the year 1979-80 and that the Gurgaon Plant was exempted from payment of bonus under Section 16 of the Payment of Bonus Act, 1965. It was further pleaded that M/s. Indian Drugs and Pharmaceuticals Ltd., was a limited company incorporated under the provisions of Indian Companies Act with head office at Gurgaon and its plants at Rishikesh, Hyderabad, Madras, Muzzaffarpur and Gurgaon. It was pleaded that all the plants were preparing their separate balance sheets and profit and loss accounts and were also independent so far as the general administration was concerned. It was further pleaded that the plant at Gurgaon was an independent Unit of Indian Drugs and Pharmaceutical Ltd., according to the provisions of Section 3 of the Payment of Bonus Act in all respects and as such the workmen were not entitled to payment of bonus in respect of the year 1979-80. It was further pleaded that balance sheet of Gurgaon Unit had been correctly prepared and was subject to dual audit viz. statutory audit—Chartered Accountants and Government Auditors under Section 619(3) of the Companies Act, 1956. It was pleaded that debit of Rs. 6,34,718 related to raw material received from IDPL Hyderabad (a Unit of IDPL) which was subsequently transferred to Marketing Division (Unit of IDPL) and the amount was shown under the head 'earnings' in the Profit and Loss Account and since it was contra entry, it had no effect on the Profit and Loss Account of the Gurgaon Plant for the year 1979-80. It was further pleaded that the depreciation amount shown in the Balance Sheet was correct as per Income Tax Rules. It was denied that the respondent management declared the profit of Rs. 2.79 lacs on 13th October, 1981. It was pleaded that the claim of the Union for 20 per cent bonus was not tenable in the light of the lossses for the year 1979-80 and that the reference for the payment of Bonus for the year 1979-80 only had been made by the Government and as such the claim for 1978-79 was not maintainable. It was then pleaded that the details asked by the Union were given in Schedule 17 to the Balance Sheet for the year 1979-80 relating to Gurgaon Unit. It was pleaded that the respondent-management was a separate Unit and did not possess the balance sheets of other units and as such the same could not be supplied by the respondent.

4. On the pleadings of the parties, the following issues are framed on 29th January, 1982:—

(1) Whether the bonus for the year 1979-80 is not payable under law? OPM.

(2) Whether the plant of the management at Dundahera is separate entity for the purpose of Payment of Bonus Act? OPM.

(3) Whether the workmen are entitled to the grant of bonus for the year 1979-80? If so, with what details? OPW.

5. It may be mentioned that the Management has examined 7 witnesses and documents, Exhibit M-1 to M-5, MW-3/1 to MW-3/6, MW-4/1 to MW/4/2, MW-5/1 to MW-5/2, MW-6/1 to MW-6/7 and Exhibit MA to MG have been tendered into evidence. The workmen have examined four witnesses and documents, Exhibit W-1 and W-2, and Exhibit MW-3/1 to MW-3/3, have been tendered into evidence. After going through the entire evidence and hearing the representatives of both the parties, my findings on the above issues are as under:—

ISSUE NO. 1 & 2:

6. Both these issues are interlinked and can be decided together conveniently.

7. The management has examined Shri Devi Ram Khowan, Assistant Personnel Department of the respondent Co. who stated that he was working in the respondent factory since 13th May, 1977 and that the Gurgaon Plant started its production on 19th January, 1979. He further stated that before starting this plant, Board of Directors passed the resolution, Exhibit M-1, and that the recruitment was done for the Gurgaon Plant. He further stated that there were four more plants of IDPL at Rishikesh, Hyderabad, Muzaffarpur and Madras and that the recruitment of the workmen was done by each plant on its own level. He further stated that E.S.I. Scheme was enforced in January, 1979 in Gurgaon Plant,—*vide* letter Exhibit M-2. He further stated that the workers were recruited through Employment Exchange, but if any worker was transferred from one plant to other plant then he was governed by the rules and regulation of the plant where he was transferred. MW-2 Shri B. P. Kapoor, Assistant Superintendent Production, stated that the medicines were prepared in Gurgaon Unit and that returns regarding delivery of first batch of medicines were Exhibit M-3 and M-4, which were prepared by him while Exhibit M-5 was the quality control slip. MW-3 Shri Karenus Asstt. Store Officer of the respondent stated that after the medicines were prepared, he same are stocked in the Store and that after the allocation, the goods are sent outside and the returns were prepared. He further stated that Exhibit MW-3/1 to MW-3/4 were the returns prepared by him which showed that no goods were prepared in January, 1979 and that the first batch of medicines was described in the return Exhibit MW-3/3. He further stated that Exhibit MW-3/5 was the certificate issued by the Central Excise Department and that Exhibit MW-3/6 was the copy of the Central Sales Tax Certificate. MW-5 Shri A. S. Tulsi, Accounts Officer, stated that balance sheet and Profit and Loss Accounts were prepared regarding Gurgaon Unit by him, which were Exhibit MW-5/1. He further stated that this Balance sheet was duly audited. He then stated that Indian Drugs and Pharmaceutical Ltd. was running 5 plants. He further stated that consolidated balance sheet of all the Units was prepared in the Head Office which was Exhibit MW-5/2. MW-6 Shri D. R. Arora, Accounts Officer, stated that Indian Drugs and Pharmaceuticals Ltd. was running 5 plants and that each Plant was preparing its separate Balance Sheet and Profit and Loss Accounts and that thereafter a consolidated Balance Sheet was prepared in the Head Office. MW-7 Shri N. K. Wadhwa, Asstt. Executive Officer, Marketing Division, stated that the Marketing Division controlled the sales of all the plants, but Balance Sheet of each Unit was prepared separately. He further stated that the service charges regarding sales made by the Marketing Division were realised by them from the Unit concerned. He also stated that requisition was sent by them regarding the sales to the concerned Plant when the goods were transferred to the Marketing Division and were being sold. He further stated that the documents Exhibit MW-6/1 to MW-6/2. and MW-6/6 and MW-6/7 were transfer orders, while documents Exhibit MW-6/3 to MW-6/5 were sale invoices. He further stated that prices of the medicines were fixed by the Government which were intimated to their Head Office and that Head Office then used to intimate the prices to the Marketing Division as well as the Plants.

8. The workmen examined WW-1 Shri K. K. Arora, who stated that before 1978, he was posted in Rishikesh Plant as Senior Laboratory Assistant and that he was transferred to Gurgaon on 1st January, 1982. He further stated that the

workers of one plant were transferred to the other Plant. WW-2 Shri P. K. Thampy stated that he came to Gurgaon Plant in March, 1978, but was transferred to Head Office in 1981. He then stated that there were five plants of IDPL and that the workers from one Plant were transferred to the other Plant and also to the Head Office. He proved the copy of the transfer order Exhibit W-1 according to which some workers were transferred from Head Office to Gurgaon Plant. He also stated that Exhibit W-2 contained the IDPL's news and that the news was published on 25th October, 1980 in this document to the effect that the Gurgaon Plant earned profits more than two lacs and that thereafter the Union had raised the demand for the bonus. WW-3 Shri Prem Parkash Behal, Operator-cum-Mechanic stated that he was appointed in IDPL Gurgaon Plant,—*vide* letter Exhibit WW-3/1 and was again transferred to Gurgaon Plant,—*vide* letter Exhibit WW-3/3 from the Head Office. He further stated that there were five plants of IDPL and they got the bonus when he had posted in the Head Office. WW-4 Shri A. K. Sirivastav Electrician stated that he was transferred from Gurgaon Unit to Head Office and then to Gurgaon Unit.

9. A perusal of the above evidence would show that the IDPL is running 5 Units at Hyderabad, Rishikesh, Madras, Muzaffarpur and Gurgaon and the Head Office is situated at Gurgaon. MW-1 Shri Devi Ram Khowan, has deposed that the Gurgaon Plant started its production on 19th January, 1979. Exhibit M-1 shows that the meeting of the Board of Directors was held on 21st March, 1977 for establishment of the Gurgaon Unit. The document Exhibit M-2 shows that the production started on 22nd January, 1979. Document Exhibit M-4 shows that the medicines were manufactured on 23rd January, 1979. The document Exhibit M-5 is the pass slip dated 29th January, 1979. MW-2 Shri B. P. Kapur has proved the documents Exhibit M-3 to M-5. The testimony of MW-1 Shri Devi Ram and MW-2 Shri B. P. Kapur and recitals made in the documents Exhibit M-1 to M-5, therefore, go to show that the Gurgaon Unit started its production on 19th January, 1979. MW-3 Shri Karenus has proved the documents Exhibit MW-3/1 to MW-3/6. The documents Exhibit MW-3/1 to Exhibit MW-3/2 are the returns for the month of January, 1979 and have been shown as blank. The documents Exhibit MW-3/3 and MW-3/4 are the returns for February 1979 and some medicines having been manufactured have been shown in these documents. The document Exhibit MW-3/5 is the licence under Central Excise Rules in which it is recited that the said licence for the Gurgaon Unit was issued for the years 1978 to 1980. Exhibit MW-3/6 is the certificate of registration of Gurgaon Unit under Central Sales Tax Rules which was issued on 3rd February, 1977. These documents show that the Gurgaon Unit started its production in January, 1979. MW-5 Shri A. S. Tulsi has proved the balance sheet Exhibit MW-5/1 of Gurgaon Unit for the year 1979-80. This document shows that separate Balance Sheet and Profit and Loss Account statement of Gurgaon Plant was prepared for the period ending 31st March, 1980. In this document, it is recited that total loss of Gurgaon Unit for the year 1980-81 was Rs. 2,42,982 the details of which have been given in Profit and Loss Accounts Statement. This witness has also proved the annual report Exhibit MW-5/2 of I.D.P.L. for the year 1979-80 in which the consolidated Balance Sheet and Profit and Loss Account of all the five Plants was prepared by the Head Office. MW-6 Shri D. R. Arora, Accounts Officer has deposed that there were 5 Plants of IDPL and the Balance Sheet and Profit and Loss Accounts Statement of each Unit was prepared separately and thereafter the consolidated Balance Sheet of all the Units were prepared. The entire evidence, therefore, goes to prove that IDPL is running 5 Units, including Gurgaon Unit, and that separate Balance Sheet and Profit and Loss Account statement of each Unit is prepared and thereafter the Consolidated Balance Sheet of all the 5 Units is prepared by the Head Office and further that Gurgaon Unit started its production with effect from 19th January, 1979 and that the Gurgaon Unit had incurred loss to the extent of Rs. 2,42,982.00 during the year 1979-80.

10. Section 3 of the Payment of Bonus Act runs thus:—

> Establishments to include departments, undertakings and branches:—Where an establishment consists of different departments of undertakings or has branches whether situated in the same place or in different places, all such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus under this Act;

Provided that where for any accounting year a separate balance sheet and profit and loss account are prepared and maintained in respect of such department or undertaking or branch, then such department or undertaking or branch shall be treated as a separate establishment for the purpose of computation of bonus under this Act for that year, unless such department or undertaking or branch was, immediately before of the commencement of that accounting year treated as part of the establishment for the purpose of computation of bonus."

It is thus apparent that if Section-3 had no proviso to it, then all the departments, undertakings or branches could be treated as one establishment for the purpose of computation of Bonus. The proviso to Section 3 further shows that the Legislature intended that each of these factories is to be treated as separate establishment for the purpose of computation of bonus if a separate balance sheet and profit and loss account were prepared in respect thereof unless such a factory was immediately before the commencement of the accounting year treated as a part of the Establishment for the purpose of computation of bonus. As already mentioned above that balance sheet and Profit and Loss Account Statements of Gurgaon Unit are being prepared separately. The figures for the last year ending on 31st March, 1979 and 31st March, 1980 have been shown in the document, Exhibit MW-5/1. Consequently the proviso to Section 3 of the Payment of Bonus Act, 1965 applies to Gurgaon Unit and as such Gurgaon Unit is to be treated as a separate Unit for the purpose of computation of bonus.

11. Section-16 of the Payment of Bonus Act, 1965 provides for concessional treatment to newly set up establishment in matters relating to the payment of bonus, and in the case of said establishment, bonus is payable only from the accounting year in which the employer derives profits from the establishment or from the sixth accounting year following the accounting year in which the employer sells goods produced or manufactured by him or renders services, as the case may be, from the establishment, whichever is earlier. In the present case, the Gurgaon Unit started its production since 19th January, 1979 and no profits were earned by this Unit during the year 1979-80 as per document Exhibit MW-5/1 and as such, the bonus for the year 1979-80 is not payable to the workmen of the Gurgaon Unit.

12. The workmen have examined WW-1 Shri K. K. Arora, who stated that he joined service in Rishikesn Unit of IDPL Unit as Senior Laboratory Assistant and was transferred to the Gurgaon Unit on 1st January, 1982. In cross-examination, he admitted that he was transferred to Gurgaon on his request. He also stated that no T.A. and D.A. was paid to him. His evidence does not help the workmen because his transfer took place on his own request. WW-2 Shri P. K. Thampy stated that he was posted at Gurgaon Plant in March, 1978 and was transferred to Head Office in 1981. He further stated that the workmen were transferred from Head Office to Gurgaon Unit and produced the copy of the letter Exhibit W-1. In cross-examination, he admitted that the work in the Maintenance Department in which he was employed had finished and as such they were transferred to Head Office. In the letter Exhibit W-1 dated 12th March, 1982, it is recited that the workmen were transferred from the Head Office to Gurgaon Plant because the work pertaining to Maintenance of Central Office Building was entrusted to Gurgaon Unit. The testimony of WW-2 Shri P. K. Thampy and document Exhibit W-1 help the management because the work of maintenance department was transferred from Head Office to Gurgaon Plant. Consequently, the workmen working in the Maintenance Department were also transferred to Gurgaon Unit from the Head Office. WW-3 Shri Prem Parkash, stated that he was appointed,—*vide* letter Exhibit WW-3/1 and was transferred to Head Office,—*vide* letter Exhibit WW-3/2 and was again transferred to Gurgaon Unit,—*vide* letter Exhibit WW-3/3. His name also has been mentioned in the document Exhibit W-1 by which five officials were transferred to Gurgaon Unit from the Head Office because the work of Maintenance Department of the Head Office was entrusted to Gurgaon Unit. The testimony of this witness, therefore does not help the workman for the reason already given above. WW-4 Shri Anil Kumar stated that he was transferred from Head Office to Gurgaon Unit. His name also finds mentioned in the letter Exhibit W-1 and for the reason given above his evidence is no help to the workmen. It will thus be seen that the workmen have examined

four workmen who were working in the maintenance department and ultimately the work of that department in the Head Office was also transferred to Gurgaon Unit and as such these workers had to be transferred to Gurgaon Unit. In the letter Exhibit WW-3/1 issued in respect of Shri Prem Parkash (WW-3), it is recited that in case of transfer he would be governed by the Rules and Regulations applicable to the employees of the Unit where he would be transferred. Consequently in case of transfer the workman ceased to be governed by the Rules and Regulitions of the Unit where he was working previously and would be governed by the rules and regulations of the Unit where he was transferred. His evidence shows that each unit was being treated as separate Unit and the service conditions of the workers were not the same in all the Units. The copy of the judgement Exhibit M-1 dated 8th October, 1980 placed on the file shows that the Rishikesh Unit was treated as Separate Unit by the Presiding Officer, Industrial Tribunal Meeruth. This judgement also shows that all units were independent units.

13. It was argued by the representative of the workmen that the sales of all the Units were controlled by the Marketing Division and as such all the Units were not separate units. The management had examined MW-7 Shri N. K. Wadhwa Assistant Executive Officer Marketing Division, Delhi who stated that the Marketing Division controlled the sales of all the Plants. He further stated that separate balance sheet of their Division was prepared and that they used to realise the service charges regarding sales from each unit. He further stated that the prices of the medicines were fixed by the Management and that Market Division used to send requisition to the plant concerned and thereafter the goods were sold according to the fixed price. The documents, Exhibit MW-6/1, MW-6/2, MW-6/6, MW-6/7 and Sales invoices, Exhibit MW-6/3 to MW-6/5, have been proved by this witness. His testimony therefore, shows that the sales have been controlled by the Marketing Division but the service charges were realised by them from each unit for the sales made by the Marketing Division. Consequently the Marketing Division treated each Unit as a separate one and realised the service charges i.e. commission regarding sales from each unit. There is no force in the argument that all the units are not independent one, merely because the sales took place through the Marketing Division.

14. It was then argued by the representative of the workmen that since consolidated Balance Sheet was being prepared of all the Units by the Head Office therefore, all the units were not independent units. The argument is without any force because in the ruling reported as *The Workmen of H.M.T. and another* V/s *The Presiding Officer, National Tribunal Calcutta and others*, 1973 Supreme Court cases (I. & S.) 469, it is laid down that the consolidated Balance Sheet and Profit and Loss Account was only being prepared for the purpose of the Company Act. In the present case, the Consolidated Balance Sheet of all the five Units is prepared for the purpose of the Companies Act but each unit prepared its Balance Sheet separately and is thus governed by the proviso to Section 3 of the Payment of Bonus Act, 1965. It was further argued by the representative of the workmen that since the bonus was being paid by the Head Office to its workmen, therefore, the workers of Gurgaon Unit were also entitled to the bonus at the same rate. In the ruling reported as *Alloy Steel Project* Vs. *The workmen*, (1971) 3 S.C.R. 629, it is laid down that the bonus was being paid to the workmen of the Head Office only on the basis of consolidated profit of all the Units belonging to the Hindustan Steel. It was held that this act of the management was fully justified because the Head Office was working for all the units, though it is a separate unit and that in case of the Head Office, calculation of bonus on the basis of Consolidated Balance Sheet was justified, which did not effect the principles to be applied to the separate Unit for which separate accounts, separate balance sheet and separate profit and loss account statements were maintained. Following the above ruling, the argument has no force. In the ruling reported as *Workmen, Somaiya Organics (India) Ltd.* V. *Somaiya Organics India Ltd., Barabanki and others*, 1981-Lab. I.C. 366, it is laid down that where a company had two units and employees of one unit were paid bonus on the basis of separate Balance Sheet and Profit and Loss Account, the employees of other Unit could not claim bonus as the Unit was separate.

15. In view of the above discussion, it is held that the bonus for the year 1979-80 is not payable to the workmen of Gurgaon Plant for the reasons given above. Issue No. 1 is decided accordingly in favour of the management. It is further held that the plant of management at Dundahera (Gurgaon Unit) is a separate entity

of the purpose of Payment of Bonus Act. Issue No. 2 is decided accordingly in favour of the management.

ISSUE NO. 3:

16. The management has examined Shri S. K. Chaudhry, Accountant of the respondent who proved the allocable surplus calculation chart, Exhibit MW-4 and Exhibit MW-4/2. He further stated that this chart had been prepared on the basis of the Balance Sheet. The documents Exhibit MW-4/1 to MW-4/2 show that there was no allocable surplus for the purpose of Payment of Bonus for the year 1979-80 because these statements show that there was loss of Rs. 83,96,256. In balance sheet Exhibit MW-5/1 for the year 1979-80, it was mentioned that the loss actually incurred was to the tune of Rs. 2,42,982-00 the details of which are as under:—

Profit for the year 1979-80	Rs. 3,13,278.00
Deduction (Loss from last year's accounts)	Rs. 5,38,506.00
Net prior period Expenditure	Rs. 17,754.00
Loss carried to the balance sheet	Rs. 2,42,982.00

In explanation II to section 16 of the Payment of Bonus Act, it is laid down that for the purpose of sub-section 1-A, an employer shall not be deemed to have derived profit in any accounting year, unless he had made provisions for the years depreciation to which he is entitled under the Income Tax Act and the arrear of such depreciation and losses incurred by him in respect of the establishment for the previous accounting year have fully set off against his profit. Consequently the loss to the tune of 5,38,506.00 could be off by the management according to the provisions. The balance sheet Exhibit MW-5/1 alone does not justify the payment of bonus for the year 1979-80 because the management had incurred the loss to the extent of Rs. 2,42,982.00 after setting off the previous year's loss. Further, there is not allocable surplus and the statements, Exhibit MW-5/1 and MW-4/2 show that there was no allocable surplus as mentioned above, and as such no bonus could be given to the workmen during the year 1979-80.

17. The representative of the workmen placed reliance on the ruling reported as *Workmen of National Tobacco Company Ltd. and National Tobacco Company Ltd.*, 1966-II-LLJ page 200, in which it is laid down that in order to deduct rehabiliation charges if the management had to lead evidence regarding price of the plant and its age etc. In the present case, while preparing statement of allocable surplus no rehabiliation charges have been claimed but, on the other hand, investment allowance has been claimed the details of which are given in the statement Exhibit MW-4/2 because of addition of plant due to machinery equipment etc. installed during the year 1979-80. The value of the machinery etc. during that year was Rs. 2,59,04,000 and investment allowance was claimed on this amount to the extent of Rs. 48,57,000. Even if this item of Rs. 48,57,000 is not taken into consideration, there was no allocable surplus because the loss come to Rs. 35,39,256.

18. It was argued by the representative of the workmen that the balance sheet Exhibit MW-5/1 was not correctly prepared because the amount of Rs. 6,34,718 had been shown in expenditure for the raw material transferred to Marketing Division. While this amount should have come to the credit side. The argument is without any force because the profit and loss statement Exhibit MW-5/1 shows that raw material of the value of Rs. 6,34,718 was received from IDPL Hyderabad which was transferred to Marketing Division (the unit of IDPL). Consequently, this was *contra entry* and had no effect on the profit and account because on the one hand, the goods were received from Hyderabad Unit, while, on the other hand, same was transferred to the Marketing Division, and as such this amount could not be treated as profit.

19. It was also argued by the representatives of the workmen that depreciation amount of Rs. 39,95,824, was not shown correctly in the statement Exhibit M-4/1. It is mentioned in the statement that the amount was calculated as per income tax rates. In explanation II of Section-16 of the Payment of Bonus Act, it is provided that depreciation is to be calculated under the provisions of Income Tax Act. This amount has been shown in the statement Exhibit M-4/1 on the basis of statement Exhibit M-G.

The cost of the factory building etc. has been shown as Rs. 5,19,80,185. In the statement Exhibit M-G on the basis of which depreciation has been claimed. Consequently this item could not be excluded when there is no evidence in rebuttal to show that this calculation was not correct according to the provisions of Income Tax Act.

20. It was then argued by the representative of the workmen that the detailed information asked for by the workmen in the claim statement was not supplied. The management clearly stated in para No. 1 of the written statement that the required information was given in schedule 17 of the balance sheet Exhibit MW-5/1. All these details have been mentioned in schedule 17 to Exhibit MW-5/1. The figures relating to the travelling and conveyance expenditure, entertainment expenses, books, periodicals, and journals and other miscellaneous expenses have been given.

21. It was then argued by the representative of the workmen that in the annual report Exhibit W-2 for the year 1979-80, there was cutting from the News Paper to the effect that Gurgaon Plant had earned profit to the tune of Rs. 2 lacs and as such the workmen were entitled to the grant of bonus. As already mentioned above, the profits during this year were to the tune of Rs. 3,13,278 but the losses for the previous years amounting to Rs. 5,38,506 had to be set off and consequently, ultimately the profits were turned into losses to the extent of Rs. 2,42,982 as per details given in the Exhibit MW-5/1.

22. It was then argued that the accounts of the management should have been audited not only by the internal Auditors, but also by the Comptroller and Auditor General of India and since it was not done, the accounts produced by the management would not be taken into consideration. Exhibit MW-5/2 is the annual report of IDPL Unit for the year 1979-80. Page 26 of this report shows the report of the Internal auditors relating to Gurgaon Unit, while page 37 of this report shows the report of Comptroller and Auditor General of India for the year 1979-80 relating to the Gurgaon Unit. Consequently, both these audit report show that the argument advanced by the workmen is without any force.

23. In view of the above discussion, it is held that the workmen are not entitled to the grant of bonus for the year 1979-80 because the management did not earn any profit during the year 1979-80 when the losses for the previous year were set off and depreciation allowance was given, as mentioned above. The award is passed accordingly.

The 14th August, 1985.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 643, dated 14th August, 1985.

Forwarded (four copies) to the Commissioner & Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under Section-15 of the Industrial Disputes Act, 1947.

The 14th August, 1985.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/5/84-6Lab./7101.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the Workman and the management of M/s. Curewell (India) Ltd. Plot No. 2, Sector 6, Faridabad.

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 280/1983.

between

SHRI ABDUL RASHID WORKMAN AND THE MANAGEMENT OF M/S CUREWELL (INDIA) LTD. PLOT NO. 2, SECTOR-6, FARIDABAD.

Present:—

Shri Amar Singh Sharma for the workman.
Shri S. L. Gupta for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section-10 of the Industrial Disputes Act, 1947, the Governor of

Haryana referred the following dispute between Shri Abdul Rashid Workman and the management of M/s Curewell (India) Ltd. Plot No. 2, Sector-6, Faridabad, to this Tribunal for adjudication:—

Whether the termination of service of Shri Abdul Rahid was justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties. The claimant in his claim statement dated 6th June, 1983 alleged that the claimant was appointed by the respondent on 5th April, 1974 as Cleaner Grade II and was promoted as Laboratary Attendant Grade II on 24th April, 1979 and was drawing Rs. 469 per month. It was then alleged that the Management terminated the services of the claimant illegally with effect from 4th July, 1981 in a revengeful spirit because he took active part in the strike which was called off through settlement. It was also alleged that junior workers were working in the factory while the claimant was retrenched. It was, therefore, prayed that the claimant be reinstated with full back wages.

3. The Management in their written statement dated 20th June, 1984 pleaded interalia that the Government was not competent to make the present reference, which was bad in law. It was then pleaded that in view of the deteriorating financial position of the Company, the Management decided to retrench the junior workers in different categories in accordance with the provisions of Section 25-F of the Industrial Disputes Act, 1947 including the claimant. It was pleaded that the Management offered the retrenchment benefits, but he refused to accept the same and that the retrenchment had been effected according to the rules.

4. The claimant in his rejoinder dated 28th July, 1984, reiterated the pleas taken in the claim statement.

5. On the pleadings of the parties, the following issues were framed on 28th July, 1984:—

(1) Whether the reference is bad in law? If so, to what effect? OPM

(2) Whether the termination of service of Shri Abdul Rashid was justified and in order? If not, to what relief is he entitled? OPM

6. It may be mentioned that the Management has examined one witness and documents, Exhibit M—1 to M—16, have been tendered into evidence. The workman has appeared in the witness box and documents, Exhibit W—1 to W—3, have been tendered into evidence. After going through the entire evidence and hearing the representatives of both the parties my findings on the above issues are as under:—

Issue No. 1.

The representative of the Management argued that the reference was bad in law because the workman had taken the plea of termination of service while the Management had pleaded that the claimant was retrenched and that the reference made by the Government did not relate to retrenchment. Reliance for this submission was placed on the rulling reported as *Sitaram vishnu Shirodkar V/s The Administrator, Government of Goa and others*, 1985-I-LLJ, page 480. In that case, the workman took the plea that the management terminated his services, while the case of the management was that the workman absented from duty and abondoned the job. The ruling is distinguishable on factors because in the present case the retrenchment means termination of the service, —*vide* Section 2 (oo) of Industrial Disputes Act, 1947. Consequently, the reference is not bad in law. The issue is decided accordingly against the Management.

Issue No. 2.

8. The Management has examined MW—1 Shri Jag Mohan Sharma, Factory Manager of the respondent who stated that strike in the respondent factory took place on 6th December, 1980 and was declared illegal by the Government,—*vide* letter Exhibit M—1. He further stated that due to strike, their business was highly affected and their financial position became very weak and that the balance sheets, Exhibit M—2 and M—3, showed that the financial position of the factory was not sound. He then stated that after the strike was called off, all the workers were taken on duty except 31 workmen who were laid off because there was no work for them and that lay off continued

till the end of January, 1981, when eight workmen were taken back on duty and it was decided to retrench the remaining 22 workmen including the claimant. He further stated that 20 workman had settled their dispute. He further stated that Exhibit M—4 and M—5 were the seniority lists which were duly displayed on the notice board and that the claimant was retrenched after one week of pasting the list on the notice board. He then stated that Exhibit M—6 was the retrenchment order and Exhibit M—7 contained the full and final settlement of the claimant. He also stated that Exhibit M—8 was the postal receipt for sending the retrenchment order, which was sent by registered post, but was received back was undelivered,—*vide* envelope Exhibit M—9. He further stated that the retrenchment compensation etc. was sent to the claimant by money order on the same date, —*vide* money order receipt Exhibit M—10, but the claimant had refused to receive the amount and that Exhibit M—11 to M—13 were the money order coupons. He also stated that form 'P' was sent to the Government, copy Exhibit M—14 by registered post and that the postal receipts were Exhibit M—15 and M—16.

9. WW—1 Shri Abdul Rashid claimant stated that he worked as Laboratary Attendant, when his services were terminated. He further stated that he took active part in the strike and that letters, Exhibit W—1 to W—3, were issued by the Management during the strike period asking the claimant to join duty, failing which he would be turned out. He further stated that he did not join duty during the strike period, which was ultimately called off as a result of settlement but the claimant was not asked to join duty and after the strike he was laid off by the Management. He further stated that the financial position of the factory was sound because the workers used to get the wages in time and the building was also got constructed for the factory. He further stated that he did not receive any retrenchment notice from the Management and that he was retrenched because he did not join duty during the strike period. He further stated that he did not receive the money orders and that he did not see any notice on the notice Board. He also stated that Shri Sita Ram, Shri Janki Ram, Shri Rati Ram and Shri Vasu Dev were junior to him, but were still working in the factory.

10. A perusal of the above evidence would show that the strike took place in the factory in the month of December, 1980, and thereafter 30 workers were laid off while remaining workmen were taken back on duty and that lateron 8 workmen were also allowed to join duty, but remaining 22 workmen including the claimant were retrenched. Exhibit M—6 is the copy of the letter dated 4th February, 1981, in which it is recited that in view of the deteriorating financial position of the Company, it was not in a position to carry on the production at full capacity and consequently, the claimant became surplus and would be retrenched with effect from 10th February, 1981 and that one months notice pay and retrenchment compensation were duly sent to him separately bp moneyorder. The details of the amount due to the claimant are given in the document Exhibit M—7, which was sent alongwith the letters Exhibit M—6. Exhibit M—8 is the postal receipt which shows that the letter Exhibit M—6 was sent by registered post on 4th February, 1982. The envelope Exhibit M—9 shows that the registered letter was received back as undelivered with the report that the claimant had refused to receive the same. These documents, therefore, go to show that the claimant had refused to receive the registered letter which was sent to him on 4th February, 1981 intimating him that he stood retrenched with effect from 10th February, 1981. The document Exhibit M-10 shows that three money orders were sent to the claimant on 3rd February, 1981 and money order copon Exhibit M—10 and M—12 show that the claimant had refused to receive the amount, while money order coupon Exhibit M—11 was alse received back as undelivered on the ground that the claimant was not available. The claimant while appearing as WW—1 stated that the address given on the envelope Exhibit M—9 was his permanent address. The registered letter as well as money orders were sent to the claimant on his permanent address. Consequently, the claimant refused to receive the registered letter as well as two money orders while the third money order was got returned with the report that the claimant was not available on his address. The Management, therefore, complied with the provisions of Section-25F of the Industrial Disputes Act, 1947 by sending the notice pay and compensation in advance on 3rd/4th February, 1981, as mentioned above.

11. The seniority lists Exhibit M—4 and M—5 have been proved the Management and they have deposed that the same were displayed

on the notice Board. The seniority list Exhibit M—4 shows that the claimant was the junior most Laboratary Attendant and as such his retrechment was in accordance with law. The Plea taken by the claimant that Sarvshri Sita Ram, Janki Ram, Rati Ram and Vasu Dev were still working in the factory does not help the claimant because in the seniority list Exhibit M—5, they have been shown as Cleaners whereas the claimant was a Laboratary Attendant. The document M—14 is the copy of Form 'P' and documents, Exhibit M—15 and M—16, show that this form was sent to various authorities on 5th February, 1981.

12. The case of the Management is that the financial position of the Management was not sound due to which retrenchment had been effected. Exhibit M—3 is the annual report for the year 1981 containing balance sheet etc. At page 9, it is recited that during the year 1981, the exports of the company had further declined from Rs. 34.5 lacs to Rs. 13.75 lacs. These recitals show that the exports of the Company had considerably declined, in 1981. At page 10, it is recited that sum of Rs. 6, 24, 794.07 P. would be transferred from General Reserves to offset the loss of the Company for the year 1981 and the payment of divident due to which the Reserves and Surplus of the Company would stand reduced to Rs. 44, 45, 947.93 P. only. This recital show that the Company suffered a loss in 1981. At page 19, it is recited that the Company suffered a loss to the extent of Rs. 5,37, 294-07 P. during the period ending on 31st December, 1981. This recital also show that the financial postion of the company was not sound during the year 1981. The Management has thus led evidence to show that the retrenchment had to be effected as the financial position of the Company was not sound in 1981. In the ruling reported as *M/s Parry and Co. Ltd. V. P. C. Pal Judge of the Second Industrial Tribunal Calcutta and others*, 1970-Lab. I. C. 1071, it is laid down that the Management could retrench its employee only for the proper reason and that it is for the Management to decide the strength of its labour and if the number of workers exceeded the reasonable and legitimate needs of the undertaking, it is open to the Management to retrench them.

13. It was argued by the representative of the workman that the services of the claimant were retrenched *mala fide* because he did not obey the order of the Management sent through the letters Exhibit W—1 to W—3 during the strike period. The claimant was asked by these letters to join duty, on the ground that the strike was declared illegal. The claimant was however not retrenched during the strike period and even after the strike was called off, he was laid off with 29 workers and ultimately retrenched alongwith 21 more workers. The claimant was not the only person, who was retrenched but, on the other hand, 21 more workers were retrenched with him. It has been found above, that he was the junior most Laboratory attendant and that the financial position of the company was not sound during year 1981, when the retrenchment was effected. As such the argument does not carry any weight.

14. In view of the above discussion, it is held that the claimant was retrenched and that the provisions of Section 25-F of the Industrial Disputes Act, 1947, were complied with by the Management and as such it cannot be held that the termination of his services was illegal. The claimant is thus not entitled to any relief. The award is passed accordingly.

Dated 17th August, 1985.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 656, Dated 17th August, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section-15 of the Industrial Disputes Act, 1947.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/5/84-6Lab./7103.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the Workman and the management of Haryana Roadways, Faridabad.

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 380/1982.

between

SHRI RAJINDER SINGH WORKMAN AND THE MANAGEMENT OF HARYANA ROADWAYS, FARIDABAD.

Present:—

Shri S. S. Gupta, *for the workman.*

None, *for the Management.*

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Rajinder Singh Workman and the Management of Haryana Roadways, Faridabad to this Tribunal, for adjudication:—

Whether the termination of service of Shri Rajinder Singh was justified and in order?

2. Notices were issued to both the parties. The claimant in his demand notice dated 4th March, 1982, alleged that he was working in Haryana Roadways for the last 10 years and that his work and conduct was quite satisfactory. It was then alleged that his services were terminated on 23rd October, 1983 illegally and by way of unfair labour practice and that the charges levelled against him were incorrect. It was also alleged that no proper and legal enquiry was held as per law applicable to the claimant and principles of natural justice were flouted. It was, therefore, prayed that the claimant be reinstated with full backwages.

3. The Management in their written statement dated 1st December, 1982 pleaded that no irregularity was committed by the respondent, while terminating the services of the claimant. It was further pleaded that on receipt of the report from the Inspecting Staff, the claimant was placed under Suspension on 6th July, 1979 and was served with chargesheet dated 26th June, 1979 and after considering the reply to the chargesheet, the Enquiry Officer was appointed on 4th October, 1979 by the General Manager Haryana Roadways, Gurgaon, who was the then Punishing Authority of the claimant being General Manager of the Sub Depot Delhi as well. It was further pleaded that the Enquiry Officer recorded the statements of the witnesses produced by the Management in the presence of the claimant who was given full opportunity to cross-examine them and that the claimant produced his witness Shri Darshan Lal. It was also pleaded that the Enquiry Officer submitted his finding holding the claimant guilty of the charge and that second show cause notice dated 2nd July, 1980 was given to the claimant and after considering his reply and giving personnal hearing, the services of the claimant were terminated.

4. On the pleadings of the parties, the following issues were framed on 3rd December, 1982:—

(1) Whether the domestic enquiry is fair and proper? OPM

(2) Whether the termination of service of Shri Rajinder Singh was justified and in order? If not, to what relief is he entitled? OPM

5. It may be mentioned that the Management examined one witness and proved the documents, Exhibit M—1 to M—9, and ultimately none appeared on behalf the management and as such *ex-parte* proceedings were ordered against the Management. The workman appeared in the witness box and provided the documents, Exhibit W—1 to W—3, and closed his evidence. After going through the entire evidence and hearing the representative of the claimant, my findings on the above issues are as under:—

Issue No. 1.

6. The Management examined MW—1 Shri Nihal Singh, Clerk, Haryana Roadways, who stated that the claimant was suspended on 6th July, 1979,—*vide* letter Exhibit M—1 and that the charge-sheet Exhibit M—2 was given to him, when the Enquiry Officer was appointed,—*vide* letter Exhibit M—3. He further stated that the Enquiry Officer submitted his report Exhibit M—4 and that second show cause notice Exhibit M—5 was given to the claimant and that personal hearing was also given to the claimant, —*vide* letters Exhibit M—6 and Exhibit M—7, and that Exhibit M—8 was the copy of the termination order. He further stated that no objections were filed by the claimant during the enquiry and that Exhibit M—9 contained day to day proceedings held by the Enquiry Officer.

7. Shri Rajinder Singh claimant WW—1 stated that Exhibit W—1 was the copy of the reply to the chargesheet given by him. He further stated that during the enquiry proceedings, he was made to sit outside the enquiry premises and that the enquiry proceedings were not held in his presence. He further stated that the copy of the complaint was not given to him and that he was not given opportunity to cross examine the management's witnesses. He also stated that he gave the application Exhibit W-2 to change the Enquiry Officer, but no action was

taken thereon. He also stated that no representative assisted him in the enquiry nor the Management had appointed their representative. He further stated that no compensation was paid to him, when his services were terminated.

Firstly, a perusal of the above evidence would show that the version of the claimant Shri Rajinder Singh WW—1 stands unrebutted because he was not cross examined by the Management as *ex-parte* proceedings were ordered against the Management, as mentioned above. Secondly, the claimant has deposed that the enquiry was neither fair nor proper. The document Exhibit M—9 contains day-to-day proceedings, held by the Enquiry Officer while Exhibit M—4 is the copy of the enquiry report. A perusal of this document would show that the claimant was not being represented by any person to assist him in the enquiry. The enquiry proceedings Exhbit M—8 go to show that Shri Darshan Lal witness of the claimant produced in the witness box was cross examined on 18th January, 1979 by the Enquiry Officer at page 9, which runs into three pages. **Likewise** Shri Rajinder Singh claimant was also cross examined by the Enquiry Officer on 24th October, 1979. In the ruling reported as *Gopal krishna Raju* v. *State of Karnataka* 1980-Lab.I.C. No. 65, it is laid down that if the records disclosed that in the absence of a presenting Officer, the Enquiry Officer had put leading question, to the prosecution witnesses or cross examined the defence witnesses or made any suggestion, then the enquiry proceedings are vitiated on the ground that the Enquiry Officer acted both as a Judge. In the ruling reported as *L. R. Shiraguppi and other* v. *The Deputy Supdt. of Police Mercara and others*, 1978-Lab. I.C. 60, it is laid down that where the Enquiry Officer cross examined the departmental witnesses and defence witnesses himself he had acted in one-sided manner, due to which proceedings are vitiated. Both these rulings apply the facts of the present case because not only the claimant but also his witnesses were cross examined by the Enquiry Officer at a great length and there is thus force in the argument of the representative of the workman to the effect that the Enquiry was vitiated on this ground alone.

8. It was then argued by the representative of the workman that the list of witnesses was not given to the claimant and as such the enquiry was vitiated. Reliance was placed on the ruling reported as *Enfield India Limied* v. *Second Additional Labour Court, Madras and another* (Vol. 59) F.J.R. 365, in which it is laid down that where the standing orders applicable to the establishment enjoined on the employer to append a list of witnesses to the chargesheet to be served on the workman, failure to comply with this provision of the standing orders would vitiate the domestic enquiry following upon such chargesheet. The ruling is distinguishable on facts because in the present case, the names of both the witnesses, namely, Shri Ass Mohd and Shri Sher Singh Inspectors, were given in the chargesheet Exhibit M—2 in which it was alleged that both these witnesses had checked Bus No. 4166 on 14th June, 1979 on Delhi Hodel Road and found that the claimant had realised Rs. 21.66 paise from 12 passengers from Palwal to Aurangabad and five passengers from Palwal to Mundkati Chowki, but had not issued the tickets to them and thus misappropriated the sum of Rs. 21.60 paise. Since the names of both these witnesses appeared in the chargesheet, therefore, none supply of list of witnesses alongwith the chargesheet does not go to the root of the matter.

9. In view of the above discussion, it is held that no proper and fair enquiry was held against the claimant. The issue is decided accordingly against the management.

Issue No. 2:

10. In the ruling reported as *Shri Shambu Nath Goyal and Bank of Baroda and others*, 1983-II-L.L.J. page 415, it is laid down that when a question arises in a reference under Section 10 of the Industrial Disputes Act, 1947, after the workman had been punishaed pursuant to a finding of guilt recorded against him in the domestic enquiry, there is no question of the management filing any application for permission to lead further evidence in support of the charge or charges framed against the workman, because the defect in the domestic enquiry is pointed out by the workman in the written statement filed in the Labour Court or Industrial Tribunal after the reference had been received and the Management had the opportunity to look into that statement before the Industrial Tribunal and can make request for the opportunity in the written request itself and that if it does not choose to do so at that stage, it cannot be allowed to do so at any later stage of the proceedings by filing an application, which may result in delay and lead to

wrecking the morale of the workman and compel him to surrender which he may not otherwise do. It was argued by the representative of the workman that on the basis of this ruling, the Management had not made any prayer in the written statement to lead evidence to prove the charges against the claimant if the enquiry was held to be vitiated and as such the enquiry cannot be reopened by the Industrial Tribunal. Since in the written statement no such prayer was made by the Management to lead evidence to prove the charges against the claimant if the enquiry was held to be vitiated, the enquiry cannot be reopened, in view of the fuling of the Hon'ble Supreme Court referred to above.

11. It was also argued that the impugned order, dated 23rd October, 1981 terminating the service of the claimant was illegal because the past record of the claimant was taken into consideration and no details of the past conduct were given to him. Reliance for this submission was placed on the ruling reported as *M. Kuppuswamy* v. *The Presiding Officer Ist Additional Labour Court Madras and other*, 1984 Lab. I. C. No. C-78 (Madras), in which it is laid down that where the past record relating to the earlier misconduct was taken into account without putting workman on notice, there was violation of principles of natural justice. Second ruling is *Binny Limited* v. *Their Workmen and another*, 1972 Lab. I. C. 1141, in which it is laid down that where the delinquent is charged of a particular misconduct but the dismissal order is passed as a result of the cumulative effect of the particular misconduct charged as well as the past lapses for which opportunity to explain was not given, the order is not maintainable. Following these rulings, the impugned order, dated 23rd October, 1981 terminating the services of the claimant is not maintainable because the full particulars of the past misconduct were not given in the second showcause notice, due to which the claimant could not explain the above lapses. As already mentioned above, the Management led some evidence but later on failed to attend the Court, due to which *ex-parte* proceedings were ordered against them on 12th July, 1985.

12. In view of the above discussion, it is held that the enquiry held against the claimant was vitiated and that the impugned order terminating the service of the claimant was illegal and is thus liable to set aside and, as a consequence, the claimant is reinstated with full back wages. The award is passed accordingly.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 17th August, 1985.

Endorsement No. 654, dated 17th August, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section-15 of the Industrial Disputes Act, 1947.

R. N. BATRA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 20th September, 1985.

No. 9/5/84-6Lab./7612.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. The Rohtak Central Co-operative Bank Ltd., Rohtak :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 10 of 84.

between

SHRI KADAM SINGH DHANKHAR, WORKMAN AND THE MANAGEMENT OF M/S. THE ROHTAK CENTRAL CO-OPERATIVE BANK, LTD., ROHTAK.

Shri M. C. Bhardwaj, A. R. for the workman.
Shri V. S. Singla, A. R. for management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Kadam Singh Dhankhar and the management of M/s. The Rohtak Central Co-operative Bank, Ltd., Rohtak, to this Court. for adjudication,—*vide* Labour Department Gazette Notification No. 6983—87, dated 20th February, 1984:—

> Whether the termination of services of Shri Kadam Singh Dhankhar is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent since 10th November, 1976 and the respondent choose to terminate his services on 2nd August, 1978 without any prior notice or payment of any retrenchment compensation as envisaged under section 25F of the Industrial Disputes Act, 1947.

3. In the reply filed by the respondent, it is alleged that the appointment of the petitioner was purely on *ad hoc* basis and so his services could be terminated at any time without any prior notice and as such, it was not obligatory on the part of the Bank to pay him retrenchment compensation and as such, the order of termination is valid. Additional pleas projected are that the petition is delayed and this Court has no jurisdiction to try this petition and further the petitioner is estopped from raising his dispute by his acts and conduct.

4. On the pleadings of the parties, the following issues were settled for decision on 30th July, 1984:

1. Whether the Labour Court has no jurisdiction to try this reference?
2. Whether the claim is barred?
3. Whether the termination of services of Shri Kadam Singh Dhankhar is justified and in order? If not, to what relief is he entitled?

5. The workman appeared as his own witness as WW-1 and the respondent examined Shri Surinder Singh, Assistant Manager as MW-1.

6. I have heard the learned authorised representatives of the parties. My findings on the issues framed are as below:—

ISSUE NO. 3:

7. Certain facts are undisputed. The any overriding effect over the provisions of management denied that the petitioner was employed on 10th November, 1975. It is not the case of the respondent that he was not relieved on 2nd August, 1978. The only stand taken by the respondent is that since the appointment of the petitioner was purely on ad hoc basis, so the respondent was within its right to terminate his services at any time. This approach, in my opinion, is erroneous and runs counter to the provisions of 25F of the Industrial Disputes Act, 1947. It was also argued that the services of the petitioner were dispensed with under the Haryana Central Co-operative Banks Staff Services (Common Cadre) Rules 1975. It is difficult to hold that the provisions of these Rules can have any over riding effect over the provisions of section 25F and G and H of the Industrial Disputes Act, 1947. The petitioner has admittedly put in more than 240 days of actual work with the respondent and as such, the respondent was not within the law to dispense with his services without complying with the provisions of section 25F of the Industrial Disputes Act, 1947. There is no paucity of authorities on this point and I need not encumber the file with citations. So, the respondent was not justified in terminating the services of the workman in the manner he did and as such, the order of termination is set aside.

8. Now, the question would be as to what relief should be granted to the workman. It was vehemently argued on behalf of the respondent that the workman has been slumbering over his rights for five long years, before raising the present dispute, because his services were terminated on 2nd August, 1978 and the demand notice was raised by him on 12th December, 1983. It was not disputed that no limitation has been prescribed in raising a demand notice or making a reference of the dispute to the Court by the Government, but the Courts have usually viewed with disfavour delayed references which are more than three years of termination. The reasons for the same are that after lapse of sufficient time the industry employs alternative labour force and reinstatement of the sacked workman causes unnecessary dislocation. In the present case, no such situation can arise, because the petitioner was simply employed as clerk and clerks are employed in expending agricultural economy with regular intervals, because the respondent bank has been constituted primarily for the need of the agricultural community, so reinstatement of the workman will not cause any undue hardship to the respondent.

9. On the question of back wages also Shri Bhardwaj prayed that full back wages be granted, because the workman has been agitating his claim on other forms before raising the dispute with the Labour Department and in that behalf he has drawn my attention to Exhibit W-1 to W-11, copies of various applications,

which the workman has been moving with the highest in the land, without any relief. I have gone through the applications given by him and if these are the true re-production of the petitions sent by him to the various functionaries, plight of the workman has been really pitiable. He has not left any avenue unexplored and feeling frustration every where, he turned to the Labour Court for relief. Under these circumstances, I am not inclined to deprive him from the benefit of back wages also. So, the workman is ordered to be reinstated with continuity of services and full back wages. The reference is answered and returned accordingly. There is no order as to costs.

Dated: 2nd August, 1985.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 10-84/1425, dated 2nd September, 1985.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

The 19th September, 1985

No. 9/5/84-6Lab/7522.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Fancy Yarn Agency, Ramnagar, Tehsil Camp, Panipat (Haryana) :—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA CITY

Ref. No. 41 of 1984

between

SHRI RAM NARAIN PANDIT, WORKMAN AND THE MANAGEMENT OF M/S FANCY YARN AGENCY, RAM NAGAR, TEHSIL CAMP, PANIPAT (HARYANA)

Present.—

Shri Raghbir Singh, for workman.

Shri Surinder Kaushal, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred the dispute between Shri Ram Narain Pandit workman and the management of M/s Fancy Yarn Agency, Ram Nagar, Tehsil Camp, Panipat (Haryana). The terms of the reference are as under :—

"Whether the termination of services of Shri Ram Narain Pandit, workman, was justified and in order ? If not, to what relief is he entitled to ?"

Shri Ram Narain Pandit, workman has alleged through his statement of claim that he was a permanent worker in the respondent concern and used to draw Rs 425 P.M. Respondent without any reason and also without following proper procedure terminated services of the applicant on 9th January, 1984. Applicant approached the respondent time and again to keep him in service but he refused. Hence the reference is. He has also prayed for reinstatement with full back wages and continuity in service.

Respondent contested this reference and contended that applicant joined on 2nd January, 1984 on trial basis. He remained on duty upto 6th January, 1984 at Rs 376 P.M. as Helper and not a twister. Applicant caused loss being unskilled and negligent. He was immediately removed from service so applicant's assertions are baseless and not at all tenable and not entitled to relief claimed for.

On the pleadings of the parties, the following issues were framed.—

1. Whether termination order, dated 9th January, 1984 is legal, if not its effect? OPM.

2. Relief.

I have heard authorised representatives of the parties and have perused evidence lead by them. My issue-wise findings are as under :—

Issue No —

The respondent management to discharge the onus of this issue examined Shri Narain Dass as MW-1, who made statement on oath that applicant joined duty on trial basis as a Helper on 2nd January, 1984. His work was not found satisfactory, so he was removed from the service on 6th January, 1984. The respondent also tendered into evidence Attendance Register of this concern pertaining to the year January, 1983 to May, 1984. Perusal of this register shows that applicant never remained on the rolls of the respondent-management.

The another piece of evidence although it is not proved according to law of evidence i. e. receipt which is marked 'A' signed by applicant on 16th December, 1983 which reads that applicant used to work in firm M/s Moti Ram-Lachhman Dass which he left after taking all dues and gave receipt work 'A' to that concern in token of receipt of his dues.

Applicant has examined himself as AW-1 and stated that he remained in employment of respondent-management for about one year from January, 1983 to 9th January, 1984 and his services were terminated by the respondent-management against law.

In view of the above evidence I am of the considered opinion that the sole statement of applicant is not at all believable when he himself asserted that near about 24 workers work in the management firm but not even a sight worker was examined by him to support his case. If the applicant would have been in the employment of the respondent-management in those circumstances his name must have figured in the Attandance Register. Applicant has also admitted that respondent firm is covered uoder ESI Scheme but nothing was contributed towards ESI Scheme from the wages of the workman nor anything was deducted from his pay and was contributed towards his gratuity etc. Moreover Mark-A also goes against the applicant which is on receipt or one can call it as certificate that applicant remained in the employment of firm M/s. Moti Ram-Lachhman Dass upto 18th December, 1983 and received all his dues from them and then he came in the employment of respondent-management where his work and conduct was not satisfactory, so his services were terminated. The respondent management did not act in contravention of section 25(F) of the I.D. Act, 1947. So the alleged order of the respondent is just and according to law. Accordingly, this issue is decided in the affirmative.

Issue No. II.—

For the fore-going reasons on the basis of my issue-wise finding I deliver my award regarding the controversy between the parties accordingly.

Dated the 23rd July, 1985.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 1775, dated Ambala City, the 31st July, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

The 20th September, 1985

No. 9/5/84-6Lab./7573.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Haryana Dairy Development Cooperative Federation Ltd., Gohana Road, Milk Plant, Rohtak :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 77 of 1983

between

SHRI RAM PHAL, WORKMAN AND THE MANAGEMENT OF M/S. HARYANA DAIRY DEVELOPMENT CO-OPERATIVE FEDERATION LTD., GOHANA ROAD, MILK PLANT, ROHTAK.

Present :—

Shri S. N. Vats, A. R. for the workman.
Shri K. L. Nagpal, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the Shri Ram Phal workman and the management of Haryana Dairy Development Co-operative Federation Ltd., Gohana Road, Milk Plant, Rohtak, to this Court, for adjudication,—*vide* Labour Department Gazette Notification No. ID/30655—60, dated 29th June, 1983:—

Whether the termination of services of Shri Ram Phal was justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The claim of the workman is that the was employed with the respondent since 1st January, 1978 but the respondent choose to terminate his services unlawfully on 6th July, 1981 in flagrant disregard of the Industrial Disputes Act, 1947.

3. Before any reply could be filed by the respondent, the respondent placed on record a copy of the order of the Hon'ble High Court of Punjab and Haryana, dated 4th April, 1984,—*vide* which, proceedings in this case in this Court were stayed. The Writ Petition, in which, proceedings were stayed by the Hon'ble High Court was decided on 18th September, 1984. In view of this decision in Civil Writ Petition No. 1556 of 1984 titled Haryana Dairy Development Co-operative Federation Ltd., Chandigarh *V/s.* State of Haryana and others, the learned Authorised Representative of the workman stated that reference is bad in law and as such he does not want to prosecute the same and so the same be dismissed. It is ordered accordingly. The reference is answered and returned accordingly. There is no order as to cost.

Dated, the 1st August, 1985.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 77-83/1409, dated 2nd September, 1985

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the I. D. Act 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

No. 9/5/84-6Lab/7616.—In pursuance of provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s The Sirsa Central Co-operative Bank Ltd, Sirsa:—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 236 of 1980

between

SHRI JAGJIT SINGH WORKMAN AND THE MANAGEMENT OF M/S THE SIRSA CENTRAL CO-OPERATIVE BANK LTD., SIRSA

Present:—

None, for the workman.

Shri Vijay Kumar clerk of Shri S. S. Goel. A. R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes, Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Jagjit Singh, and the management of M/s The Sirsa Central Co-operative Bank Ltd., Sirsa, to this Court, for adjudication,—*vide* Labour Department Gazette Notification No. ID/HSR/51-80/ 55140, dated 28th October, 1980 :—

Whether the termination of services of Shri Jagjit Singh, was justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties appeared. The claim of the workman is that he was appointed as a Secretary of the Primary Credit Co-operative Societies on 5th March, 1976 on probation for a period of 12 months and that all through his work and conduct has been satisfactory and that in the month of March 1978 the respondent choose to terminate his services in flagrant disregard of the provisions of section 25 F of the Industrial Disputes Act, 1947.

3. A reply was filed by the respondent, controverting the claim of the petitioner in *toto*.

4. On the pleadings of the parties, the following issue was framed for decision on 12th April, 1983:—

Whether the termination of services of Shri Jagjit Singh, was justified and in order ? If not, to what relief is he entitled ?

5. Thereafter the management examined one witness and closed its evidence.

6. Before any evidence could be adduced by the workman, he absented without any cogent explanation. The only inference possible is that the workman is not interested in prosecution of this reference and as such, the same was dismissed for non-prosecution and answered accordingly. There is no order as to cost.

B. P. JINDAL,

Dated, the 13th August, 1985.

Presiding Officer,
Labour Court, Rohtak.
Camp Court, Sirsa.

Endorsement No. 236-80/1435, dated the 2nd September, 1985.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.
Camp Court, Sirsa.

No. 9/5/84-6Lab/7623.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Rama Fibres Ltd., Bamla, Bhiwani :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 60 of 84

between

SHRI BISHAN PAL, WORKMAN AND THE MANAGEMENT OF M/S RAMA FIBRES LLD., BAMLA, BHIWANI

Shri S. N. Vats, A. R. for the workman.

Shri S L. Gupta, A. R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Bishan Pal and the management of M/s Rama Fibres Ltd., Bamla, (Bhiwani), to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. 15827—32, dated 24th April, 1984 :—

Whether the termination of services of Shri Bishan Pal, was justified and in order? If not, to what relief is he entitled ?

2. After receipt of the order of reference notices were issued to the parties. The parties appeared. The claim of the workman is that he was employed with the respondent as a Time-Keeper on 1st August, 1982 and remained serious ill from 20th October, 1983 to 25th October, 1983 and that on 1st November, 1983 the respondent barred his entry to the factory premises without any lawful excuse in flagrant disregard of the provisions of the Industrial Disputes Act, 1947.

3. In the reply filed by the respondent, the case of the workman has been controverted in *toto*. Pleas propounded need not be detailed, because this reference is being answered on grounds other than merits.

4. On the pleadings of the parties, the following issue was framed on 5th October, 1984 :—

1. Whether the termination of services of Shri Bishan Pal is justified and in order? If not, to what relief is he entitled ?

5. After the parties had gone through the gamut of adducing evidence and the case was fixed for arguments, the learned Authorised Representative of the workman made a statement in the Court, that because of some technical flaws in the reference, the workman does not want to prosecute the reference any further, so the same is dismissed and answered accordingly. There is no order as to cost.

B. P. JINDAL,

Dated the 20th August, 1985. Presiding Officer,
Labour Court, Rohtak.

Endst. No. 60-84/1442, dated 2nd September, 1985.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

No. 9/5/84-6Lab/7624.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of he Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Murarka Engineering Works, MIE, Bahadurgarh:—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 119 of 1983

between

SHRI RAJ NATH BHAGAT, WORKMAN AND THE MANAGEMENT OF M/S MURARKA ENGINEERING WORKS MIE BAHADURGARH

Present—

Shri R. S. Dahyiaya, A. R. for the workman.

Shri M. M. Kaushal, A. R. for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following disputes between the

workman Shri Raj Nath Bhagat and the management of M/s Murarka Engineering Works MIE Bahadurgarh to this Court, for adjudication,—*vide* Labour Department Gazette Notification No. ID/RTK/79-83/42118–23, dated 19th August, 1983 :—

Whether the termination of services of Shri Raj Nath Bhagat was justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The claim of the workman is that he was working as a helper with the respondent for the last about two years on monthly wages of Rs. 340/- and that the respondent choose to terminate his services unlawfully on 9th October, 1982 in flagrant disregard of the provisions of Industrial Disputes Act, 1947.

3. In the reply filed by the respondent, the claim of the workman has been controverted in *toto*. Various pleas projected need not be detailed, because this reference is being answered on grounds others than merits.

4. On the pleadings of the parties, the following issues were settled for decision on 22nd October, 1984 :—

1. Whether the reference is bad in law ?
2. Whether the workman remained gainfully employed after his alleged termination?
3. Whether the termination of service of Shri Raj Nath Bhagat was justified and in order? If not, to what relief is he entitled?

5. Before any evidence could be adduced, the parties arrived at an amicable settlement, whereunder the workman has agreed to receive a sum of Rs. 1800/-from the respondent in full and final settlement of his claim. This amount shall be paid by the respondent on or before 6th September, 1985. There under statements of the parties have been recorded by me today. So, now, nothing survives for adjudication. The reference is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Bahadurgarh.

Date : the 26th June, 1985.

Endorsement No. 119-83/1443, dated the 2nd September, 1985.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.
Camp Court, Bahadurgarh.

No. 9/5/84-6Lab/7625.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Murarka Engineering Works, Bahadurgarh (Rohtak) :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 131 of 1983

between

SHRI RAM PAT, WORKMAN AND THE MANAGEMENT OF M/S MURARKA ENGINEERING WORKS, BAHADURGARH (ROHTAK)

Shri R. S. Dahiya, A.R., for the workman.

Shri M. M. Kaushal, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Ram Pat and the management of M/s. Murarka Engineering Works, Bahadurgarh (Rohtak) to this Court, for adjudication,—*vide* Labour Department Gazette Notification No. ID/45393-98, dated 5th September, 1983 :—

Whether the termination of services of Shri Ram Pat, was justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The claim of the workman is that he was working as helper with the respondent for the last about two years on monthly wages of Rs. 340 and that the respondent choose to terminate his services unlawfully on 9th October, 1982 in flagrant disregard of the provisions of the Industrial Disputes Act, 1947.

3. In the reply filed by the respondent, the claim of the workman has been controverted in *toto*. Various pleas projected need not be detailed, because this reference is being answered on ground other than merits.

4. On the pleadings of the parties, the following issues were settled for decision on 22nd October, 1984 :—

(1) Whether the reference is bad in law ?

(2) Whether the workman remained gainfully employed after his alleged termination ?

(3) Whether the termination of service of Shri Ram Pat was justified and in order ? If not, to what relief is he entitled ?

5. Before any evidence could be adduced, the parties arrived at an amicable settlement, whereunder the workman has agreed to receive a sum of Rs. 1200 from the respondent in full and final settlement of his claim. This amount shall be paid by the respondent on or before 6th September, 1985. Thereunder statements of the parties have been recorded by me today. So, now, nothing survives for adjudication. The reference is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.
Camp Court, Bahadurgarh.

Dated the 26th August, 1985.

Endst. No. 131-83/1444, dated the 2nd September, 1985

Forwarded (four copies), to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.
Camp Court, Bahadurgarh.

No. 9/5/84-6Lab/7626.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Themis Pharmaceuticals (Prop. Chemosyn Pvt. Ltd.,) Suren Road, Bombay-400093.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 201 of 82

between

SHRI J. N. BHARGAWA, WORKMAN AND THE MANAGEMENT OF M/S THEMIS PHARMACEUTICALS, (PROP. CHEMOSYN PVT. LTD.), SUREN ROAD, BOMBAY 400093.

Shri Virender Singh, A.R., for the workman.

None, for the respondent.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri J. N. Bhargava and the management of M/s. Themis Pharmaceuticals, (Prop. Chememosyn Pvt. Ltd.), Suren Road, Bambay 400093, to this Court, for adjudication,—*vide* Labour Department Gazette Notification No. ID/RTK/115/82/46475 dated 11th October, 1982 :—

Whether the termination of services of Shri J. N. Bhargava was justified and in order ? If not, to what relief is he entitled ?

2. After receipt of thet order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that the respondent choose to terminate his services'—*vide* letter dated 5th November, 1981, which he alleged was against the terms of appointment and further the said order of termination was passed in flagrant disregard of the provisions of the Industrial Disputes Act, 1947.

3. In the reply filed by the respondent the claim of the workman has been controverted *in toto*. Pleas propounded need not be detailed, because this reference is being answered on grounds other than merits.

4. On the pleadings of the parties, the following issues were framed by me on 12th June, 1985 :—

1. Whether the applicant is a workman as defined in section 2(s) of the Industrial Disputes Act, 1947 ?
2. Whether the reference is bad in law in view of the preliminary objection numbers 1 and 2 taken in the written statement ?
3. Whether no cause of action has accrued in favour of the workman to raise the present dispute ?
4. Whether the applicant in estopped from raising the present dispute by his acts and conducts ?
5. Whether the termination of services of Shri J. N. Bhargawa was justified and in order ? If not, to what relief is entitled ?

5. Before any evidence could be recorded, workman settled his claim with the management and in that behalf an application was filed by him dated 21st August, 1985. Therein he stated that his claim has been fully satisfied and as such he does not want to prosecute this reference. His application is Ex. M-1. So, now, nothing survives for adjudication. The reference is answered and returned accordingly with no orders as to cost.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Dated, the 27th August, 1985.

Endorsement. No. 201-82/1445, dated the 2nd September, 1985.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

No. 9/5/84-6Lab/7627.—In pursuance of the provisions of section 17 of the Industrial Disdutes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. (i) District Manager, Confed, Rohtak, (ii) Haryana State Federation of Consumers Co-operative Wholesale Store Ltd., Chandigarh :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER LABOUR, COURT, ROHTAK

Reference No. 61 of 83

between

SHRI PARMA NAND WORKMAN AND THE MANAGEMENT OF M/S. (I) DISTRICT MANAGER, CONFED, ROHTAK, (II) HARYANA STATE FEDERATION OF CONSUMERS CO-OPERATIVE WHOLESALE STORE LTD., CHANDIGARH

Present.—

Shri S. N. Vats, A. R. for the workman.

Shri M. C. Bhardwaj, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Parma Nand and the management of M/S. (i) Distt. Manager Confed, Rohtak (ii) Haryana State Federation of Consumers Co-operative wholesale Store Ltd., Chandigarh, to this Court, for adjudication,—*vide* Labour Department Gazette Notifcation No. ID/RTK/42-83/22514-19, dated 12th May, 1983.—

Whether the termination of services of Shri Parma Nand was justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the workman is that he was employed with the respondent as a Salesman since 28th January, 1981 on monthly wages of Rs. 350 and that the respondent did not allow him to resume his duties on 24th August, 1982 and in this way illegally terminated his services and that the said order of termination is illegal and liable to be set a side, because the same was passed in gross violation of the provisions of section 25F of the Industrial Disputes Act, 1947.

3. In the reply filed by the respondent, various preliminary pleas were taken. The same are that the reference is bad in law and that the respondent is not an "industry" as defined in section 2 (j) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) and that the workman could choose the more efficacious remedy of appeal against the order of termination with the Registrar Co-operative societies and that the services of the workman were terminated in accordance with the terms and conditions of his employment.

4. On the pleadings of the parties, the following issues were settled for decision by me on 3rd October, 1984 :—

1. Whether the respondent is not an "industry" as defined in section 2 (j) of the Industrial Disputes Act, 1947 ?

2. Whether the reference is bad in law ?

3. Whether the termination of service of Shri Parma Nand was justified and in order ? If not, to what relief is he entitled ?

5. The workman appeared as his own witness as WW-1 and the management examined its Local Assistant Manager Shri Ram Dhan as MW-1.

6. Parties heard. My findings on the issues framed are as below:—

Issue No. 1 :

7. On this issue no arguments were addressed on behalf of the respondent, because the respondent is admittedly an "industry" as defined in section 2(j) of the said Act. So, this issue is answered against the management.

Issue No. 2 :

8. No arguments were addressed on this issue, so the same is answered against the management.

Issue No. 3 :

9. On this issue the learned Authorised Representative of the respondent Shri Bhardwaj (who himself once adorned the Chair of Presiding Officer, Industrial Tribunal, Haryana) raised a faint plea that since the petitioner was an *ad hoc* employee, as per the terms and conditions of his letter of appointment, his services could be dispensed with at any time without assigning any reason and so the petitioner cannot challenge the order of termination. In my opinion, this contention is mis-conceived, because any stipulation in the letter of appointment which contravenes the provisions of the Act can have no binding force. It was further argued by him that since the petitioner was guilty of embezzling a sum of Rs. 5326.73, so also his termination was justified. Even if, it be admitted that there was a shortage of goods worth Rs. 5326-73 in the charge of petitioner when any physical checking was conducted, even then the respondent could not have terminate his services without holding a proper domsstic probe into the same. But admittedly no such domestic enquiry was held by the respondent so, the order of termination runs counter to the provisions of section 25F of the Act as the workman was not given any prior notice of termination or retrenchment compensation as envisaged in section 25F of the said Act. So, the order of termintaion is illegal and the same is set aside.

10. The services of the workman were terminated on 24th August 1982 and the demand notice appended with the order of reference is dated 20th September, 1982. So, the present dispute was raised by the workman within one month of his termination and as such, he cannot be denied the benefits of back wages. So, the workman is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly. There is no order as to cost.

B. P. JINDAL,

Dated the 27th August, 1985.

Presiding Officer,

Labour Court, Rohtak.

Endstt. No. 61-83/1446, dated 2nd September, 1985.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,

Labour Court, Rohtak.

The 1st October,. 1985

No. 9/5/84-6Lab/7904.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Krishna Printers, 14/3, Navel Compound, Mathura Road, Faridabad:—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 116 of 1983

between

SHRI RAJ KUMAR MISHRA, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S KRISHNA PRINTERS 14/3, NAVEL COMPOUND, MATHURA ROAD, FARIDABAD

Present.—

None for the workman.

Shri Pardeep Sharma, for the respondent-management.

AWARD

This industrial dispute between the workman Shri Raj Kumar and the respondent-management of M/s. Krishna Printers, 14/3, Mathura Road, Navel Compound, Faridabad has been referred to this court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/26-83/1317—12, dated 18th March, 1983, under Section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Raj Kumar was justified and in order ? If not to what relief is he entitled ?

According to the demand notice, the claimant was appointed in 1978. On 18th November, 1982 when he reported for usual duty, he was not allowed to join duty. No reason was told to him and no charge-sheet was given to him. Hence the claimant has prayed for reinstatement with continuity of setvice and with full back wages.

The management has contested this claim of the workman. It is contended that the workman joined the service on 1st March, 1979. He worked with the respondent upto 20th March. 1981 and he left the service of his own and took away his full and final payment. The factory has been closed since 1st August, 1981.

In the rejoinder, the workman has denied all the averments. The claim was contested on the issues :—

1. Whether the workman has settled his dispute after receiving his full and final payment?
2. Whether the respondent has closed the factory on 1st August, 1981 ? If so its effect?
3. As per reference.

I have heard the representative of the management as none has appeared for the workman. The workman has also not produced his evidence. My findings on the issues are as under :—

ITSUE NO. I :—

The management has relied upon the settlement Ex. M-1. It has been proved by Shri Harish Chander MW-1 and Thri Umrao Singh, MW-2. Shri Umrao Singh has stated that the claimant has received the amount in his presence. There is no rebuttal of this evidence of the management. I therefore find that the workman has settled his dispntes,—*vide* settlement Ex. M-1.

ISSUE NO. II :—

It has been stated by MW-1 that the factory has been closed at the spot. The notice was issued to the Factory Inspector, photo copy of which is Ex. M-2. Letter was also written to the General Manager, District Industries Centre. Its copy is Ex. M-3 and that the factory has been closed on 1st August, 1981. There is also no rebuttal of this evidence. Hence this issue is decided against the workman. The factory has been closed and the workman is not entitled to any relief.

ISSUE NO. III :—

In view of my findings on issue No. 1, the services of the workman were not terminated, Rather he has left the services of his own,—*vide* settlement Ex. M-1. He is therefore, not entitled to any relief. The award is given accordingly.

R. N. SINGAL,

Dated the 25th July/12th August, 1985.

Presiding Officer,
Labour Court, Faridabad.

Endst. No.2595, dated 4th September, 1985.

Forwarded (four copies) to the Commissioner & Secretary to Government Haryana, Labour & Employment, Departments Chandigarh, as required under Section 15 of the Industrial Desputes Act.

R.N. SINGAL,

Presiding Officer
Labour Court, Faridabad.

No. 9/5/84-6Lab./8178.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. National Packing, Link Road, Faridabad :—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT FARIDABAD

Reference No. 186 of 1984

between

SHRI RAM BHAJAN, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S. NATIONAL PACKING, LINK ROAD, FARIDABAD

Present.—

Workman in person, along with Shri K. L. Sharma.

Shri R. P. Singh, for the respondent-mangement.

AWARD

233

This Industrial dispute between the workman Shri Ram Bhajan, and the respondent-management of M/s. National Packing, Link Road, Faridabad has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/106-84/27109–14, dated 30th July, 1984 under section 10(i)(c) of the industrial disputes Act, 1947 for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Ram Bhajan was justified and in order ? If not to what relief is he entitled ?

The workman has received some amount in full and final settlement of his claim. His statement has been recorded. He has no right of reinstatement/re-employment with the respondent-management. Hence the award is given that the dispute has been fully settled.

R. N. SINGAL,

Dated, the 3rd September, 1985. Presiding Officer,
Labour Court, Faridabad.

Endstt. No. 2599, dated the 17th September, 1985.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment, Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

The 1st October, 1985

No. 9/5/84-6 Lab/8184.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Elson Cotton Mills Ltd., Mathura Road, Ballabgarh :—

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 50 of 1985

between

SHRI RAM KISHORE, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S ELSON COTTON MILLS LTD., MATHURA ROAD, BALLABGARH

Present:—

Workman in person.

Shri Umesh Bhardwaj for the respondent management.

AWARD

This industrial dispute between the workman Shri Ram Kishore and the respondent-management of M/s Elson Cotton Mills, Ltd., Mathura Road, Ballabgarh has been referred to this court by the Hon'ble, Governor of Haryana,—*vide* his order No. ID/FD/116-84/5393-98, dated 14th February, 1985, under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Ram Kishore, was justified and in order ? If not, to what relief is he entitled ?

The workman has received Rs 1128.06 today in this court in full and final statement of all his claims. He has no right of reinstatement/re-employment with the respondent-management. His statement has been recorded. Hence the award is given that the dispute has been fully settled. The workman will be treated as retrenched.

Dated, the 19th September, 1985.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 2763, dated the 19th September, 1985.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes, Act, 1947.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.